

REMARKS

Claims 1-3 and 5-13 are pending in this application.

I. Allowable Subject Matter

Applicants thank the Examiner for the indication that claims 3, 5-8, 12 and 13 are allowed in view of the Board Decision dated February 4, 2008.

II. Double Patenting Rejection

Claims 1, 2 and 9-11 were rejected on the ground of nonstatutory obviousness-type double patenting over claims 1-6 and 11-13 of U.S. Patent No. 6,878,775 to Husemann et al. (hereinafter "the 775 patent").

To obviate this rejection, submitted herewith is a terminal disclaimer.

Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

III. Rejection under 35 U.S.C. 102(e)/103(a)

Claims 1, 2 and 9-11 were rejected under 35 U.S.C. 102(e) as allegedly being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as allegedly being unpatentable over the 775 patent.

The 775 patent has a filing date of February 12, 2002, and is therefore antedated by Applicants' priority date. Applicants have perfected their claim to their priority date of February 24, 2001 by filing a certified translation of their priority document DE 101 09 066.8 submitted herewith. The 775 patent is therefore not available against the present application.

Accordingly, the rejection of claims 1, 2 and 9-11 under 35 U.S.C. 102(e) or,

in the alternative, under 35 U.S.C. 103(a) should therefore now be withdrawn.

IV. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-3 and 5-13 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

CONDITIONAL PETITION FOR EXTENSION OF TIME

If any extension of time for this response is required, Applicants request that this be considered a petition therefor. Please charge the required petition fee to Deposit Account No. 14-1263.

ADDITIONAL FEE

Please charge any insufficiency of fee or credit any excess to Deposit Account No. 14-1263.

Respectfully submitted,
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Attachments:
Terminal Disclaimer
Certified Translation of DE 101 09 066.8